

MAY 17 2001



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D. Peter Hochberg
D. Peter Hochberg Co., L.P.A.
1940 E. 6th street- 6th floor
Cleveland, OH 44114-2294

In re Application of
SCHMITZ et al
Application No.: 09/719,731
PCT No.: PCT/EP99/01246
Int. Filing Date: 26 FEBRUARY 1999
Priority Date: 14 MARCH 1998
Attorney's Docket No.: R00099US
For: SILICONE CONTACT ADHESIVE WITH
REDUCED COLD FLOW

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the "Petition For Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 C.F.R. § 1.137(b)" filed on 15 December 2000.

BACKGROUND

On 26 February 1999, this international application was filed, claiming an earliest priority date of 14 March 1998.

On 13 September 1999, a Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 14 September 2000. This international application became abandoned with respect to the United States at midnight on 14 September 2000 for failure pay the basic national fee.

On 15 December 2000, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee. No executed declaration or oath was submitted with this petition.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 1.37(b)(3). In this application, no terminal disclaimer is required.

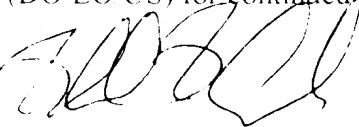
Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

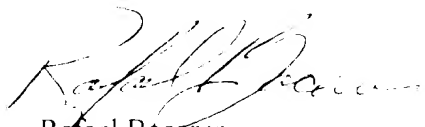
The petition under 37 CFR 1.137(b) is **GRANTED**.

Because no terminal disclaimer was required for this international application, the \$110.00 fee submitted under 37 CFR 1.20(d) is being refunded to applicants' representative Account No. 08-2441. In addition, the required fee of \$130.00 for the surcharge under 1.492(e) for late filing of the declaration has been charged to Deposit Account No. 08-2441 as authorized in the transmittal letter.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing.



Richard Cole
PCT Legal Examiner
PCT Legal Office



Rafael Baeares
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6312
Fax: (703) 308-6459